

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

JAMES C. WINDING

PETITIONER

VERSUS

CIVIL ACTION NO. 5:23-cv-29-DCB-FKB

MARC McCLURE, Superintendent, et al.

RESPONDENTS

ORDER DENYING PETITIONER'S MOTION TO SUBMIT
AFFIDAVIT OF POVERTY AND TO PROCEED UNDER DISABILITY ACT

This matter is before the Court on Petitioner James C. Winding's ("Petitioner") Motion to Submit Affidavit of Poverty and to Proceed Under Disability Act ("Motion") [ECF No. 17]. The Court, having examined the Motion, the record, the applicable legal authority, and being fully informed in the premises finds that Petitioner's Motion should be denied.

On May 2, 2023, the Court entered a Memorandum Opinion and Order ("Memorandum Opinion") [ECF No. 11] and Final Judgment ("Judgment") [ECF No. 12] dismissing this habeas civil action. As stated in the Memorandum Opinion, the United States Court of Appeals for the Fifth Circuit entered an Order on January 10, 2023, sanctioning Petitioner \$500.00 and barring him from filing "any pleadings based, in whole or in part, on his kidnapping and sexual battery convictions and sentences" in that court or any court subject to the Fifth Circuit's jurisdiction "until the sanction is satisfied." *See In re Winding*, No. 22-90065 (5th Cir. 2023). Liberally construing Petitioner's Motion, the Court

finds that Petitioner is requesting that this Court waive or disregard the Fifth Circuit's sanction based on the Disability Act and allow him to proceed. Pet'r's Mot. [ECF No. 17] at 1. This Court is without authority to waive, disregard, or overturn the Fifth Circuit's requirement that Petitioner pay the \$500.00 sanction. Petitioner's Motion is without merit.

For the foregoing reasons, Petitioner's Motion [ECF No. 17] will be denied. Accordingly,

IT IS HEREBY ORDERED that Petitioner's Motion to Submit Affidavit of Poverty and to Proceed Under Disability Act [ECF No. 17] is DENIED.

SO ORDERED, this 11th day of May, 2023.

s/David Bramlette
UNITED STATES DISTRICT JUDGE